IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.
WRIT PETITION No.5074 of 2006.

Mohan Khatri ..Petitioner.

Vs.

Rambadan Shivprasad Yadav ..Respondent.

I.R. Kulkarni and D.S.Joshi,Counsel for the Petitioner.

CORAM: V.C.DAGA,J.
DATED: 29.09.2006.

P.C.:-

1] Heard the learned Counsel for the Petitioner.

2] It is clear from the facts brought on record that the Application under the Workmen's Compensation Act was allowed in the month of January,2000. The petitioner remained absent. Thereafter, it appears that miscellaneous application was filed for setting aside the ex-parte order. The said Application was also dismissed in default. Thereafter, sometime in the year 2005 the Applicant has moved Application before the Commissioner for Workmen's Compensation to condone delay and to restore the original application. Pending restoration application,

orders dated 8th February, 2006 directing issuance of recovery certificate in favour of Bombay Collector to recover amount awarded by the Workmen's Compensation came to be passed. No fault can be found with the action or order impugned. The petitioner was negligent in defending his rights, he has to suffer consequences thereof.

3] The petitioner cannot be heard of saying he will remain ex-parte in the original proceedings and thereafter move application for restoration and allow it to be dismissed in default and then apply for restoration thereof and keep the same pending for months together and thereby deprive the claimant or victim its rightful claim till such time his lethargy and negligence is not adjudicated upon. The petition is absolutely without any merit. The same is dismissed with costs quantified in the sum of Rs. 2,500/- payable to the workman within eight weeks from today.

[V.C.DAGA,J.]